Supreme Court, U. S.
FILED
JUL 25 1997
CLERK

(3)

No. 96-1874

IN THE

Supreme Court of The United States

October Term, 1996

CHARITA D. CHALMERS,

Petitioner,

v.

TULON COMPANY OF RICHMOND,

Respondent.

On Petition For A Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit

PETITIONER'S REPLY TO BRIEF IN OPPOSITION

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July 25, 1997

Balmar Legal Publishing Services, Washington, D.C. (202) 682-9800

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Pursuant to Rule 15.6 of the Rules of this Court, Charita D. Chalmers (Petitioner) files this Reply to Respondent's Brief in Opposition to address the issue it raised that this Court does not have jurisdiction to consider the Petition for Writ of Certiorari. That issue was not addressed in the Petition.

THIS COURT DOES HAVE JURISDICTION TO CONSIDER THE PETITION FOR WRIT OF CERTIORARI

Respondent Tulon Company of Richmond states in its Brief in Opposition that this Court cannot exercise jurisdiction over this case because the Petition was not properly filed in accordance with Supreme Court Rules 9 and 13. (Brief in Opposition at 8-9.) On the contrary, the timeliness of the Petition was preserved under Supreme Court Rule 14.5, so that this Court does have jurisdiction to consider the Petition.

Petitioner seeks review from a decision of the United States Court of Appeals for the Fourth Circuit entered on December 4, 1996. *Chalmers v. Tulon Co. of Richmond,* 101 F.3d 1012 (4th Cir. 1996)(App. A-1). Petition for rehearing and suggestion for rehearing *en banc* was denied by order filed January 16, 1997. Supreme Court Rule 13 provides, in relevant part:

> 1. Unless otherwise provided by law, a petition for a writ of certiorari to review a judgment in any case . . . is timely when it is filed within 90 days after entry of the judgment."

Sup. Ct. R. 13. In accordance with this Rule, Petitioner timely and in good faith filed the Petition for Certiorari on April 16, 1997.

As Respondent points out, however, Petitioner's counsel of record was not admitted as a member of the Bar of this Court at the time the Petition was submitted.[1] According to Supreme Court Rule 9.1, "[a]n attorney seeking to file a document in this Court in a representative capacity must first be admitted to practice before this Court . . . ." Sup. Ct. R. 9.1. Similarly, Supreme Court Rule 34.1(g) provides that "[e]ach document shall bear on its cover . . . the name of the attorney who is counsel of record for the party concerned (who must be a member of the Bar of this Court . . .)." Respondent is incorrect, however, in stating that this non-admission renders the Petition untimely, placing it out of the jurisdiction of this Court.

Although the Petition was submitted prior to the counsel of record's admittance, the timeliness of the Petition was nevertheless preserved under Supreme Court Rule 14.5, which provides:

> If the Clerk determines that a petition submitted timely and in good faith is in a form that does not comply with this Rule [14] or with Rule 33 or 34, the Clerk will return it with a letter indicating the deficiency. A corrected petition received no more than 60 days after the date of the Clerk's letter will be deemed timely.

Sup. Ct. R. 14.5. Soon after submitting the Petition, counsel of record applied for admission to the Bar of this Court and was admitted on May 27, 1997. Thereafter, the Clerk of the Court deemed the corrected Petition timely and placed the Petition on the docket on May 28, 1997.

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[1] Petitioner notes that other counsel listed on the Petition were admitted to the Bar of this Court at the time of submission.

Thus, pursuant to Supreme Court Rule 14, the necessary corrections were made within 60 days and the timeliness of the Petition was preserved. This Court may therefore properly exercise jurisdiction over this case.

CONCLUSION

This Court does have jurisdiction to consider the Petition and, for the reasons set forth in the Petition for Writ of Certiorari, the Writ should be granted.

Respectfully submitted,

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